

ENTERED

June 17, 2021

Nathan Ochsner, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

NEXTIER COMPLETION SOLS. INC.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. H-21-mc-1278
	§	
DYNAENERGETICS EUROPE GMBH and	§	
DYNAENERGETICS US, INC.,	§	
	§	
Defendants.	§	

ORDER

In December 2020, DynaEnergetics Europe GmbH and DynaEnergetics US, Inc. sued NexTier Oilfield Solutions Inc. for patent infringement in the Western District of Texas. *DynaEnergetics Europe GmbH et al. v. NexTier Completion Sols. Inc.*, Civil Action No. 6:20-1201 (W.D. Tex.). In January 2021, the DynaEnergetics entities filed separate actions against Nexus Perforating LLC and Vigor USA, LLC for patent infringement in the Southern District of Texas. *DynaEnergetics Europe GmbH et al. v. Nexus Perforating LLC*, Civil Action No. 4:21-280 (S.D. Tex.); *DynaEnergetics Europe GmbH et al. v. Vigor USA, LLC*, Civil Action No. 4:21-283 (S.D. Tex.). Each action is based on the DynaEnergetics entities' allegation that the defendants are infringing their patent, U.S. Patent No. 10,844,697.

In April 2021, NexTier Completion Solutions, Inc. sued the DynaEnergetics entities in the Southern District of Texas, seeking a declaratory judgment that it is not infringing the '697 Patent. *NexTier Completion Sols. Inc. v. DynaEnergetics Europe GmbH et al.*, Civil Action No. 21-1328 (S.D. Tex.). Shortly thereafter, the DynaEnergetics entities filed an amended complaint in the Western District action, adding NexTier Completion Solutions as a defendant and dismissing NexTier Oilfield Solutions. (Docket Entry Nos. 24, 29, Civil Action No. 6:20-1201 (W.D. Tex.)).

Two of the Southern District of Texas actions were assigned to this court, which had the lowest-numbered action. NexTier now moves to transfer its action against the DynaEnergetics entities to this court as well. (Docket Entry No. 1, Miscellaneous Action No. 4:21-mc-1278).

The DynaEnergetics entities do not oppose transferring, but they object to coordinating the action under the schedule currently in place for the related actions. (Docket Entry No. 2, Miscellaneous Action No. 4:21-mc-1278). The DynaEnergetics entities have until July 27, 2021, to answer or otherwise respond to NexTier's complaint. (Docket Entry No. 11, Civil Action No. 4:21-1328). In the related actions, the deadlines for the PR 3-1 and 3-2 initial disclosures have passed, the PR 3-3 disclosure deadlines are June 30 and July 12, and the PR 4-1 disclosure deadline is July 21. (Docket Entry No. 28, Civil Action No. 4:21-280; Docket Entry No. 27, Civil Action No. 4:21-283). The DynaEnergetics entities argue that they should not have to comply with those disclosure deadlines before their answer or response to NexTier's complaint is due. NexTier does not oppose modifying the current scheduling order to accommodate those concerns.

The DynaEnergetics entities state that they will move to dismiss or transfer NexTier's action based on the first-filed rule, because their Western District action was filed before NexTier's action. (Docket Entry No. 2 at 4, Miscellaneous Action No. 4:21-mc-1278). The DynaEnergetics entities have not filed that motion, making the argument premature.

NexTier Completion Solutions v. DynaEnergetics Europe GmbH et al., Civil Action No. 4:21-1328, is transferred to Chief Judge Lee H. Rosenthal for coordinated case management with the related actions. The parties must confer and submit a proposed scheduling order coordinating this and the related actions, by **June 25, 2021**.

SIGNED on June 17, 2021, at Houston, Texas.

A handwritten signature in black ink, appearing to read "Lee H. Rosenthal", written over a horizontal line.

Lee H. Rosenthal
Chief United States District Judge